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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/757,072

01/14/2004

Yutaka Tohgi

YAMA:064

5355

7590

12/18/2006

ROSSI & ASSOCIATES

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EXAMINER

WARREN, DAVID S

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/757,072		TOHGI ET AL.	
	Examiner		Art Unit	
	David S. Warren		2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 9-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/14/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1 - 8 in the reply filed on September 29, 2006 is acknowledged.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5 – 8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As per MPEP 2106 IV,B,1,(a): the claims must positively recite a "computer-readable medium. For the Applicant's convenience, the appropriate section from the MPEP is as follows:

Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and Office personnel should treat a claim for a computer program, **without the computer-readable medium** needed to realize the computer program's functionality, **as nonstatutory functional descriptive material**. [Emphasis added].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiang et al. (2004/0103370) in view of Probst (2003/0140034). Regarding claims 1 and 5, Chiang discloses the use of an input portion (i.e., extensible mark-up language) for inputting content data (60; fig. 4), a utilization portion providing a user with information through the use of the content material data (66), and transformation portion transforming the input content definition data in order to make the content definition data applicable to the utilization portion and supplying the transformed content definition data to the utilization portion (64). Chiang does not disclose the use of a musical content utilizing apparatus wherein the input portion comprising different kinds of content material data about music. Probst discloses the use inputting data (like Chiang, XML data) and stylesheets for different kinds of music content (see paragraph [0025]; fig. 4). It would have been obvious to one of ordinary skill in the art to modify Chiang to include inputting music related XML data. The motivation for making this modification is taught by Probst, that is, to allow different assets (i.e., music assets) to be stored in a single database and to more efficiently and economically manage digital-assets (including music assets), thus improving system interoperability (see Abstract). Regarding claims

2 and 6, Chiang discloses a stylesheet storage portion (62) and a transformation process portion for transforming the input content definition data in accordance with the stylesheet stored in the stylesheet storage portion (64). Regarding claims 3 and 7, the stylesheet of Chiang (as extensible stylesheet language) is written in "text/css" format – this format is upgradeable (for corroboration, see Applicant's prior art submission to Takashi, JP 2001-024996). Regarding claims 4 and 8, the utilization portion has a display (part of element 66, fig. 4) wherein the stylesheet defines the layout (paragraph [0032]).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jarrett et al. (2006/0254407) discloses representing MusicXML (which may be used in conjunction with stylesheets), Mangerie, et al. (2003/0236792) discloses XML in multimedia inputs, and Lin-Hendel (7,096,426) shows XML in accordance with recorded media.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2837. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2837

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dsw



LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER